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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,132	12/05/2005	Stefan Wilhelm	LINDE-627	2561
23599 7590 06/15/2009 MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201				
EXAMINER DOERRLER, WILLIAM CHARLES				
ART UNIT 3744		PAPER NUMBER		
NOTIFICATION DATE 06/15/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@mwzb.com

Office Action Summary

Application No.

10/520,132

Applicant(s)

WILHELM, STEFAN

Examiner

William C. Doerrler

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5 and 7-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5, 7-16, 18-20, 23 and 24 is/are rejected.
- 7) ☒ Claim(s) 17, 21, 22 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 19, "side walls are divided into several of the enclosure into several individual panels" does not make sense. Claim 20 depends from claim 19, so it is unclear due to its dependency.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5, 7-14, 18, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mathews (3,305,986) in view of the '918 British patent from the IDS.

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Mathews discloses applicant's basic inventive concept, a rectangular bottomed (see figure 1), metal lined (see line 21 of column 1) insulating enclosure having frame members 36 as parts of each of the panels, substantially as claimed with the exception of forming the sheet metal lining using sheet metal panels which are held together with a frame of U-shaped members. The '918 British patent show this feature to be old in the metallic enclosures art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention from the teaching of the '918 British patent to modify the enclosure of Mathews by forming the sheet metal lining with common sized panels that are held together with a framework formed from U-shaped members to provide a fluid tight, durable enclosure that can be readily transported and assembled for use with extremely low temperatures. In regard to filling the enclosure with thermal insulation material, the first line of page 2 of applicant's specification states that cold boxes are conventionally filled with perlite. In regard to claim 5, the size of the panels is seen as a matter of design choice for an ordinary practitioner in the art. Applicant's claimed size range is seen to be in the range that would have been obvious to an ordinary practitioner in the art to provide panels that are easily transported and easy to assemble. In regard to claim 8, see line 22 of column 3 of Mathews. In regard to claim 10, the mounting of components to frameworks is well known in the art to provide a strong foundation for supporting the component. Preassembling a portion of the wall before it is integrated into the sidewall is seen as obvious to one of ordinary skill in the assembly of structures art. Portions of walls are customarily partially assembled and then added to the whole. Figure 1 of Mathews shows multiple panels forming a wall

unit. In regard to claim 12, the thickness of the sheet metal is seen as a matter of obvious design choice for an ordinary practitioner to provide the required protection as economically as possible. In regard to claim 13, figure 4 of the British patent shows legs extending to the outside of the frame. In regard to claim 14, the U shaped frame members of the British patent are seen as equivalent to two L shaped members in regard to providing stiffness. In regard to claim 18, Figure 1 of Mathews shows several panels connected to form each of the walls. In regard to claim 23, the device being insulated is seen as a matter of design choice since the insulation system will work for any item, and distillation columns are well known to be insulated. In regard to claim 24, figure 4 of Mathews shows the vertical support in the middle of the panel.

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mathews in view of the '918 British patent as applied to claims 2-5, 7-14, 18, 23 and 24 above, and further in view of Bardo et al (5,236,625).

Mathews, as modified, discloses applicant's basic inventive concept, an insulated housing for a cryogenic device with sheet metal panels of a common size, substantially as claimed with the exception of using round diagonal braces. Bardo et al show this feature to be old in the framework art (see 221 and 223). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention from the teaching of Bardo et al to modify the supports of Mathews by using diagonal braces to improve the rigidity of the framework.

Allowable Subject Matter

Claims 17,21,22 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 2-5 and 7-25 have been considered but are moot in view of the new ground(s) of rejection.

Mathews shows insulated panels with integral framing members and sheet metal linings. It is considered obvious to use such a panel for any device requiring insulation. The British patent shows U shaped framing members and sheet metal lining to be known in the insulation of extremely cold items. The combination of these teachings is seen to render the insulation of any extremely cold item, such as a distillation column, using panels comprising framing and sheet metal lining to be obvious to an ordinary practitioner in the art. Applicants state in the specification that filling an enclosure with perlite is conventional in the distillation column art. This is seen to render the filling of the enclosure with insulation obvious.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Doerrler whose telephone number is (571) 272-4807. The examiner can normally be reached on Monday-Friday 6:30-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William C Doerler
Primary Examiner
Art Unit 3744

WCD

/William C Doerler/
Primary Examiner, Art Unit 3744